

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
EL PASO DIVISION

Jesus Hernández, individually and as  
the surviving father of Sergio Adrián  
Hernández Güereca, and as  
Successor-in-Interest to the Estate of  
Sergio Adrián Hernández Güereca;  
María Guadalupe Güereca Bentacour  
individually and as the surviving mother  
of Sergio Adrián Hernández Güereca,  
and as Successor-in-Interest to the  
Estate of Sergio Adrián Hernández  
Güereca,

*Plaintiffs,*

vs.

THE UNITED STATES OF AMERICA;  
Unknown Named Agents of the United  
States Border Patrol; United States  
Department of Homeland Security;  
United States Bureau of Customs and  
Border Protection; United States  
Border Patrol; United States  
Immigration and Customs Enforcement  
Agency; United States Department of  
Justice,

*Defendants.*

Civil Action No.  
6:11-cv-00013

**PLAINTIFFS' ORIGINAL  
COMPLAINT**

**Jury Trial Demanded  
on all counts except FTCA**

**PLAINTIFFS' ORIGINAL COMPLAINT**

Plaintiffs, Jesus Hernández and María Guadalupe Güereca Bentacour  
(hereinafter "Plaintiffs"), individually as the surviving parents of Sergio Adrián  
Hernández Güereca (hereinafter "Decedent," "Sergio"), and as Successors-in-

Interest to the Estate of Sergio Adrián Hernández Güereca, complain and allege as follows:

**PRELIMINARY STATEMENT AND NATURE OF THE CASE**

1. Plaintiffs bring this action pursuant to the Federal Tort Claims Act, 28 U.S.C. § 1346(b), 2671-2680; the Alien Tort Claims Act, 28 U.S.C. § 1350; and *Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics*, 403 U.S. 388 (1971), against Unknown Named Border Patrol Agent (hereinafter "Agent Doe"), employee of the United States of America, for violation of Plaintiff Decedent's individual constitutional rights guaranteed by the Fourth and Fifth Amendments of the United States Constitution, and the Laws of Nations and treaties of the United States, when Agent Doe, while acting within the course and scope of his employment used unlawful deadly force in shooting and killing Decedent on June 7, 2010, notwithstanding that Decedent was defenseless, was offering no resistance, had no weapon of any kind, and had not nor was threatening Agent Doe, or any third party, with harm, deadly or otherwise.

2. Defendant the United States of America has waived its sovereign immunity and has consented to be sued pursuant to the Federal Tort Claims Act (hereinafter "FTCA"), 28 U.S.C. § 1346(b), 2671-2680, and the Alien Tort Claims Act (hereinafter "ATCA"), 28 U.S.C. § 1350.

3. Plaintiffs plead claims under the FTCA for "injury, loss of property, or personal injury or death caused by the wrongful act or omission of any employee of the Government while acting within the scope of his office or employment, under circumstances where the United States, if a private person, would be liable

to the claimant in accordance with the law of the place where the act or omission occurred." 28 U.S.C. § 1346(b)(1). Plaintiffs plead that, at all times relevant hereto, Defendant Agent Doe was an employee of the United States of America and, while acting within the course and scope of his agency with the United States, Agent Doe maliciously, and/or wrongfully, and/or otherwise tortuously shot Decedent Sergio Adrián Hernández Güereca even though he showed no resistance to Agent Doe's demands, thereby causing Sergio Adrián Hernández Güereca's untimely death. Although the FTCA generally exempts from liability intentional torts, including assault and battery, that exception does not apply to actions arising out of the commission of such torts by "investigative or law enforcement officers of the United States Government." 28 U.S.C. § 2680(h).

4. In the alternative, Plaintiffs plead under the FTCA that Agent Doe negligently shot Decedent Sergio Adrián Hernández Güereca even though he showed no resistance to Agent Doe's demands, thereby causing Sergio Adrián Hernández Güereca's untimely death. Agent Doe negligently, wrongfully, and tortuously caused the wrongful death of Decedent Sergio Adrián Hernández Güereca. This claim is for all forms of negligence and wrongful conduct in the broadest terms allowed for torts of an investigative or law enforcement officer of a United States agency in causing the death of another.

5. Plaintiffs also bring this FTCA claim against Defendant the United States of America for the negligence of its employees within the following United States Agencies: United States Department of Homeland Security; United States Border Patrol; United States Customs and Border Protection; and United States

Immigration and Customs Enforcement Agency; and any and all of its employees for negligently supervising, training, and retaining Agent Doe.

6. In the alternative, Plaintiffs bring this claim under the Alien Tort Claims Act, 28 U.S.C. § 1350, for the violation of Decedent's rights under the Laws of Nations and the treaties of the United States.

7. At all times relevant hereto, Defendant the United States of America, is a sovereign governmental entity, which has been engaged in, among other things, controlling access into its sovereign territory, and preventing entry of undocumented individuals. Defendant the United States of America, performs these activities by and through its agencies, Defendants the United States Border Patrol, the United States Department of Homeland Security, the United States Bureau of Customs and Border Protection, and/or the United States Department of Justice, an agency of the United States, acting within the course and scope of their employment with the United States of America. United States Border Patrol Agent, Agent Doe, is sued in his individual capacity for violations of Decedent's rights guaranteed by the Fourth and Fifth Amendments to the United States Constitution.

8. Defendant Agent Doe was, and is, an investigative or law enforcement officer as defined in 28 U.S.C. § 2680(h) of Defendants United States Bureau of Customs and Border Protection, United States Border Patrol, and/or the United States Immigration and Customs Enforcement Service, a subdivision of the United States Department of Homeland Security, an agency of the United States, and was acting within the course and scope of his employment with the United

States of America and other Defendants. Defendant Agent Doe was an employee of Defendant the United States of America and the other Defendants.

9. Plaintiff will effectuate service of process on Defendants, pursuant to Fed. R. Civ. P. 4(i)(2), by sending a copy of this summons and Complaint via certified mail, return receipt requested, to the following persons and entities, which may be served by serving:

(1) The United States of America:

- (a) Vernell Everett  
Civil Process Clerk  
Office of the United States Attorney,  
Western District of Texas  
601 N.W. Loop 410  
Suite 600  
San Antonio, Texas 78216-5597
- (b) United States Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, N.W.  
Washington, D.C., 20530

(2) Unknown Named Agent of the United States of America:

- (a) Vernell Everett  
Civil Process Clerk  
Office of the United States Attorney,  
Western District of Texas  
601 N.W. Loop 410  
Suite 600  
San Antonio, Texas 78216-5597
- (b) United States Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, N.W.  
Washington, D.C., 20530
- (c) United States Customs and Border Protection  
Office of the Chief Counsel  
1300 Pennsylvania Avenue, N.W.  
Washington, D.C., 20229

- (d) Office of the General Counsel  
U.S. Department of Homeland Security  
Washington, D.C., 20528
  - (e) Office of the Principal Legal Advisor  
Immigration and Customs Enforcement  
U.S. Department of Homeland Security  
500 12th Street S.W.  
Washington, D.C., 20024
- (3) United States Department of Homeland Security:
- (a) Vernell Everett  
Civil Process Clerk  
Office of the United States Attorney,  
Western District of Texas  
601 N.W. Loop 410  
Suite 600  
San Antonio, Texas 78216-5597
  - (b) United States Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, N.W.  
Washington, D.C., 20530
  - (c) Office of the General Counsel  
U.S. Department of Homeland Security  
Washington, D.C., 20528
- (4) United States Bureau of Customs and Border Protection:
- (a) Vernell Everett  
Civil Process Clerk  
Office of the United States Attorney,  
Western District of Texas  
601 N.W. Loop 410  
Suite 600  
San Antonio, Texas 78216-5597
  - (b) United States Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, N.W.  
Washington, D.C., 20530
  - (c) United States Customs and Border Protection  
Office of the Chief Counsel

1300 Pennsylvania Avenue, N.W.  
Washington, D.C., 20229

- (d) Office of the General Counsel  
U.S. Department of Homeland Security  
Washington, D.C., 20528

(5) United States Border Patrol:

- (a) Vernell Everett  
Civil Process Clerk  
Office of the United States Attorney,  
Western District of Texas  
601 N.W. Loop 410  
Suite 600  
San Antonio, Texas 78216-5597
- (b) United States Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, N.W.  
Washington, D.C., 20530
- (c) United States Customs and Border Protection  
Office of the Chief Counsel  
1300 Pennsylvania Avenue, N.W.  
Washington, D.C., 20229
- (d) Office of the General Counsel  
U.S. Department of Homeland Security  
Washington, D.C., 20528

(6) United States Immigration and Customs Enforcement Agency

- (a) Vernell Everett  
Civil Process Clerk  
Office of the United States Attorney,  
Western District of Texas  
601 N.W. Loop 410  
Suite 600  
San Antonio, Texas 78216-5597
- (b) United States Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, N.W.  
Washington, D.C., 20530

(c) Office of the General Counsel  
U.S. Department of Homeland Security  
Washington, D.C., 20528

(d) Office of the Principal Legal Advisor  
Immigration and Customs Enforcement  
U.S. Department of Homeland Security  
500 12th Street S.W.  
Washington, D.C., 20024

(7) United States Department of Justice

(a) Vernell Everett  
Civil Process Clerk  
Office of the United States Attorney,  
Western District of Texas  
601 N.W. Loop 410  
Suite 600  
San Antonio, Texas 78216-5597

(b) United States Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, N.W.  
Washington, D.C., 20530

JURISDICTION

10. The jurisdiction of this Court, as to the Plaintiffs' claim against Defendant the United States of America pursuant to the FTCA, is based upon 28 U.S.C. §§ 1436(b) and 2671-2680. Jesus Hernández and María Guadalupe Güereca Bentacour filed an administrative claim for damages against the United States Department of Homeland Security on behalf of Decedent on June 23, 2010. A copy of said claim is attached hereto as "Exhibit A." Defendant the United States of America denied Plaintiffs' claim on November 30, 2010. A copy of said denial is attached hereto as "Exhibit B." This Complaint, filed within six months of the United States' denial, is timely.

11. The jurisdiction of this Court, as to the Plaintiffs' claim against Defendant



the United States of America pursuant to the ATCA is based upon 28 U.S.C. § 1350. Plaintiffs have exhausted their administrative remedies and this Complaint is properly before this Court.

12. The jurisdiction of this Court, as to the Plaintiffs' claim against Agent Doe in his individual capacity for violation of Decedent's constitutional rights is based on 28 U.S.C. § 1331, 1332 and 1367(a), *Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics*, 403 U.S. 388 (1971), and its progeny.

#### VENUE

13. As more fully set forth herein, Plaintiffs contend that Agent Doe's acts occurred on the United States' side of the Rio Grande River in El Paso, Texas, in El Paso County, located on the border of the United States and Ciudad Juárez, Mexico. To the extent that the acts and occurrences forming the basis of this Complaint occurred in El Paso, Texas, jurisdiction is invoked by 28 U.S.C. §§ 1391(a)-(e); and 28 U.S.C. § 1402(b).

14. Alternatively, to the extent that the acts and occurrences forming the basis of this Complaint occurred in the Territory of Mexico, jurisdiction is invoked by 28 U.S.C. § 1350.

#### CONDITIONS PRECEDENT

15. All conditions precedent have been satisfied prior to filing this suit.

#### PARTIES

16. At all times relevant hereto, Plaintiff Jesus Hernández was, and now is, a citizen of the Republic of Mexico.

17. At all times relevant hereto, Plaintiff María Guadalupe Güereca Bentacour

was, and now is, a citizen of the Republic of Mexico.

18. At all times relevant hereto, Decedent Sergio Adrián Hernández Güereca was a citizen of the Republic of Mexico.

19. At all times relevant hereto, Plaintiff Jesus Hernández individually as the surviving father of Decedent, and as Successor-in-Interest to the Estate of Decedent, may maintain a Federal Wrongful Death and Survival Action and recover damages for the value of the Decedent's life and the Decedent's pain and suffering.

20. At all times relevant hereto, Plaintiff María Guadalupe Güereca Bentacour individually as the surviving mother of Decedent, and as Successor-in-Interest to the Estate of Decedent, may maintain a Federal Wrongful Death and Survival Action and recover damages for the value of the Decedent's life and the Decedent's pain and suffering.

21. At all times relevant hereto, Defendant Agent Doe was, and is, an investigative or law enforcement officer as defined in 28 U.S.C. § 2680(h) of the United States Customs and Border Protection, the United States Border Patrol, and/or the Immigration and Customs Enforcement Service, an agency of the United States, acting within the course and scope of his employment with the United States of America.

22. Plaintiffs believe and thereupon allege that, at all times relevant hereto, the United States Customs and Border Protection was, and is, a subdivision of the United States Department of Homeland Security—a United States Federal Governmental entity with headquarters in Washington, D.C., and various branch

offices throughout the country including this judicial district.

23. Plaintiffs believe and thereupon allege that, at all times relevant hereto, Agent Doe was acting within the course and scope of his employment with the Defendant the United States of America and other Defendants on June 7, 2010, when Decedent was wrongfully shot to death.

**GENERAL FACTUAL ALLEGATIONS APPLICABLE TO ALL CLAIMS FOR RELIEF**

24. Monday, June 7, 2010 reached a high of 109 degrees in El Paso, Texas. Sergio Adrián Hernández Güereca was spending the last few minutes of the day together with his friends in the all-but-dry cement culvert separating the sister countries of Mexico and the United States. Similar to the Native American Indian game "counting coup," Sergio and his friends would physically run up and touch the barbed-wire United States high fence, and then scamper back down the incline. They had no interest in entering the United States. Rather, in a scene as old as time, a group of young boys were simply ending their day laughing and playing under the gathering clouds of a evening summer thunderstorm, before heading back home for dinner and bed.

25. Suddenly, a United States border agent emerged on his bicycle and detained one of the individuals, dragging the young boy along the concrete. Sergio retreated and stood still beneath the pillars of the Paso del Norte Bridge, observing the agent. The US border agent agent then stopped, pointed his weapon across the border, seemingly taking careful aim, and squeezed the trigger at least twice, fatally wounding Sergio with at least one gunshot wound to the face. Sergio, who had been standing safely and legally on his native soil of

Mexico, unarmed and unthreatening, lay dead on his back in his blue jeans and sneakers. He was fifteen years old.

26. More US border agents arrived on scene, the shooter picked up his bicycle, and then they all left. No one took any action to render emergency medical aid to Sergio, leaving him dead or dying beneath Paso del Norte Bridge in the Territory of Mexico. Shortly thereafter, Mexican police arrived on scene and pronounced Sergio dead.

27. Almost immediately, FBI spokeswoman Andrea Simmons, prior to discovering the existence of a disturbing video depicting much of the event, issued a false and reprehensible cover-up statement:

"This agent, who had the second subject detained on the ground, gave verbal commands to the remaining subjects to stop and retreat. However, the subjects surrounded the agent and continued to throw rocks at him. The agent then fired his service weapon several times, striking one subject who later died."

28. This litigation arises from the acts and omissions of the named and unnamed Defendants acting in concert in their individual capacities, as appropriately pled herein.

29. Plaintiffs further contend that Defendants are individually, jointly, and severally liable for those violations of Decedent's constitutional rights, referenced above and below, in that Defendants have:

- (1) tolerated, condoned, and encouraged a pattern of brutality and use of excessive force by members of the United States Border Patrol, the United States Bureau of Customs and Border Protection, and/or the United States Immigration and Customs Enforcement Service

against citizens from Mexico and Central or South America;

- (2) systematically failed to properly and adequately monitor and investigate such incidents and to supervise and discipline the officers involved;
- (3) created an environment and culture in which officers and agents are encouraged to shield the misconduct of fellow officers, whereby officers and agents believe they can violate without legal consequence and with impunity the rights of persons such as Decedent;
- (4) inadequately trained officers and agents regarding the proper restraint and use of firearms as weapons; and
- (5) inadequately elected, trained, monitored, and supervised officers and agents.

**FIRST CLAIM FOR RELIEF:**

**WRONGFUL DEATH/SURVIVAL PURSUANT TO THE FEDERAL TORT CLAIMS ACT  
BASED ON BATTERY**

30. Plaintiffs repeat and incorporate above paragraphs 1 through 29, inclusive, as though fully set forth in this paragraph 30.

31. This claim for relief is brought on behalf of the Decedent, Sergio Adrián Hernández Güereca, when Agent Doe, while acting within the course and scope of his employment used unlawful, excessive deadly force in shooting and killing Decedent on June 7, 2010, notwithstanding that Decedent was defenseless, was offering no resistance, had no weapon of any kind, and had not nor was threatening Agent Doe, or any third party, with harm, deadly or otherwise.

32. Plaintiffs allege that, at all times relevant hereto, Defendant Agent Doe was acting under color of law as an employee of the United States Border Protection, the United States Bureau of Customs and Border Protection, and/or the United States Customs and Immigration Enforcement Service. In such capacity, Agent Doe used excessive deadly force and intentionally shot Decedent on June 7, 2010, while in the course and scope of his employment as an investigative and law enforcement officer acting within the course and scope of his employment with the Defendant the United States of America. Plaintiffs allege that Agent Doe, while acting under color of law during performance of his law enforcement functions, had a duty to refrain from the use of excessive force in attempting to effectuate the arrest of Decedent. In shooting Decedent under such circumstances, Agent Doe perpetuated a nonconsensual touching of Decedent's body, which resulted in Decedent's death.

33. As a direct and proximate result of the wrongful acts and omissions of Agent Doe, while in the course and scope of his employment with Defendant the United States of America, Decedent suffered fatal injuries for which Plaintiffs now complain. Plaintiffs allege that such acts and omissions fall within the purview of 28 U.S.C. § 2671, et. seq.

34. As a direct and proximate result of the actions of Defendant the United States of America's employee Agent Doe, Plaintiffs have suffered the loss of love, aid, comfort, and society of Decedent, who was a devoted son, funeral and burial expenses, and Decedent suffered conscious pain and suffering, loss of value of life to himself and any and all other damages allowed under the FTCA

for which Plaintiffs seek compensatory damages against Defendant the United States of America.

**SECOND CLAIM FOR RELIEF:**  
**WRONGFUL DEATH/SURVIVAL PURSUANT TO THE FEDERAL TORT CLAIMS ACT BASED**  
**ON NEGLIGENCE**

35. Plaintiffs repeat and incorporate above paragraphs 1 through 34 inclusive, as though fully set forth in this paragraph 35.

36. On June 7, 2010, Agent Doe had a duty, while acting within the course and scope of his employment with Defendant the United States of America, to not cause personal injury or death through his own wrongful or negligent act or omission. Agent Doe further had a duty to act with due care including, but not limited to, following appropriate policies and procedures and to not allow a situation to develop in which he would, through lack of due care, cause the death of another human being.

37. Agent Doe, negligently or otherwise, breached this duty of care on June 7, 2010 when he placed himself in a position such as to wrongly and unjustifiable use excessive deadly force and discharge a firearm at Decedent, resulting in Decedent's death. Agent Doe was negligent in causing the death of Decedent, and his negligence or other wrongful conduct of Agent Doe resulted in the death of Decedent and gives rise to a cause of action under the FTCA, 28 U.S.C. § 2671, et. seq. At all times relevant herein, Agent Doe should have maintained appropriate precautions such as to not discharge his firearm and cause the death of Decedent. Agent Doe breached these duties when he negligently or otherwise used excessive deadly force and wrongfully shot Decedent, causing Decedent's

untimely death.

38. As a direct and proximate result of the actions of Agent Doe, Plaintiffs have suffered the loss of love, aid, comfort, and society of Decedent, who was a devoted son, funeral and burial expenses, and Decedent himself suffered conscious pain and suffering, loss of value of life to himself and any and all other damages allowed under the FTCA for which Plaintiffs seek compensatory damages against Defendant the United States of America.

**THIRD CLAIM FOR RELIEF:**  
**VIOLATION OF FEDERAL TORT CLAIMS ACT BY DEFENDANT AGENT DOE**

39. Plaintiffs repeat and incorporate above paragraphs 1 through 29, inclusive, as though fully set forth in this paragraph 39.

40. Plaintiffs allege that, at all times relevant hereto, Defendant Agent Doe was acting under color of law as an employee of the United States Border Protection, the United States Bureau of Customs and Border Protection, and/or the United States Customs and Immigration Enforcement Service. In such capacity, Defendant Agent Doe shot Decedent while attempting to arrest him in El Paso for suspected illegal entry into the United States.

41. Plaintiffs allege that, while acting under color of law during the performance of his law enforcement functions, Defendant Agent Doe had a duty to refrain from the use of excessive force, including but not limited to deadly force, in effecting the arrest of Plaintiff. In breach of that duty, Defendant Agent Doe shot Decedent.

42. As a direct and proximate result of the acts or omissions of such Defendants, Decedent was killed, giving rise to the injuries and damages for



which Plaintiffs now complain. Plaintiffs allege that such acts and omissions by Defendant Agent Doe fall within the purview of 28 U.S.C. § 2671, et. seq.

**FOURTH CLAIM FOR RELIEF:**

**VIOLATION OF FEDERAL TORT CLAIMS ACT BY OTHER DEFENDANTS ACTING IN THEIR  
OFFICIAL CAPACITIES BY THEIR NEGLIGENT ADOPTION OF POLICIES VIOLATING  
DECEDENT'S CONSTITUTIONAL RIGHTS**

43. Plaintiffs repeat and incorporate above paragraphs 1 through 29, inclusive, as though fully set forth in this paragraph 43.

44. Plaintiffs allege that, at all times relevant hereto, the United States of America and Unknown Named Defendants, while acting in their respective official capacities, exercised supervision and control over Defendant Agent Doe. Such Defendants were acting under color of law as law enforcement officers and employees of the United States Government.

45. Plaintiffs allege that Defendant Agent Doe, while acting under color of law as an agent or employee of the United States Border Protection, the United States Bureau of Customs and Border Protection, and/or the United States Customs and Immigration Enforcement Service, shot Decedent on June 7, 2010. In shooting Decedent, Defendant Agent Doe violated the prohibitions against the use of excessive force found in the Fourth and Fifth Amendments of the United States Constitution.

46. Plaintiffs allege that the aforesaid supervisory Defendants had a duty to train, supervise, and control Defendant Agent Doe in the performance of his law enforcement duties as an agent or employee of the United States Border Protection, the United States Bureau of Customs and Border Protection, and/or the United States Customs and Immigration Enforcement Service. Said

Defendants breached their duty of care by negligently establishing, promulgating, and enforcing policies and procedures, rules, and regulations regarding the use of deadly force which they knew, or should have known, were unconstitutional and discriminatory. In turn, those policies, procedures, rules, and regulations, directly and proximately resulted in Defendant Agent Doe being armed with a firearm and authorizing him to use such firearm against Decedent in a discriminatory and unconstitutional manner on June 7, 2010.

47. As a direct and proximate result of the acts or omissions of such Defendants, Decedent was killed, giving rise to the injuries and damages for which Plaintiffs now complain. Plaintiffs allege that such acts and omissions by Defendant Agent Doe fall within the purview of 28 U.S.C. § 2671, et. seq.

**FIFTH CLAIM FOR RELIEF:**

**VIOLATION OF FEDERAL TORT CLAIMS ACT BY THE UNITED STATES OF AMERICA AND OTHER DEFENDANTS ACTING IN THEIR OFFICIAL CAPACITIES BY THEIR NEGLIGENT FAILURE TO ADOPT POLICIES TO PROTECT DECEDENT'S CONSTITUTIONAL RIGHTS**

48. Plaintiffs repeat and incorporate above paragraphs 1 through 29, inclusive, as though fully set forth in this paragraph 48.

49. Plaintiffs allege that, at all times relevant hereto, the United States of America and Unknown Named Defendants, while acting in their respective official capacities, exercised supervision and control over Defendant Agent Doe. Such Defendants were acting under color of law as law enforcement officers and employees of the United States Government.

50. Plaintiffs allege that Defendant Agent Doe, while acting under color of law as an agent or employee of the United States Border Protection, the United States Bureau of Customs and Border Protection, and/or the United States

Customs and Immigration Enforcement Service, shot Decedent on June 7, 2010. In shooting Decedent, Defendant Agent Doe violated the prohibitions against the use of excessive force found in the Fourth and Fifth Amendments of the United States Constitution.

51. Plaintiffs allege that the aforesaid supervisory Defendants had a duty of care to train, supervise, and control Defendant Agent Doe in the performance of his law enforcement duties as an agent or employee of the United States Border Protection, the United States Bureau of Customs and Border Protection, and/or the United States Customs and Immigration Enforcement Service. Said Defendants breached their duty of care by negligently failing to establish, promulgate, and enforce constitutional and nondiscriminatory policies, procedures, rules, and regulations regarding the use of deadly force. In turn, the absence of such policies, procedures, rules, and regulations, directly and proximately resulted in Defendant Agent Doe being armed with a firearm and authorizing him to use such firearm against Decedent in a discriminatory and unconstitutional manner on June 7, 2010.

52. As a direct and proximate result of the acts or omissions of such Defendants, Decedent was killed, giving rise to the injuries and damages for which Plaintiffs now complain. Plaintiffs allege that such acts and omissions by Defendant Agent Doe fall within the purview of 28 U.S.C. § 2671, et. seq.

**SIXTH CLAIM FOR RELIEF:**

**VIOLATION OF FEDERAL TORT CLAIMS ACT BY THE UNITED STATES OF AMERICA AND  
OTHER DEFENDANTS ACTING IN THEIR OFFICIAL CAPACITIES BY THEIR INTENTIONAL  
ADOPTING OF POLICIES VIOLATING DECEDENT'S CONSTITUTIONAL RIGHTS**

53. Plaintiffs repeat and incorporate above paragraphs 1 through 29,

inclusive, as though fully set forth in this paragraph 53.

54. Plaintiffs allege that, at all times relevant hereto, the United States of America and Unknown Named Defendants, while acting in their respective official capacities, exercised supervision and control over Defendant Agent Doe. Such Defendants were acting under color of law as law enforcement officers and employees of the United States Government.

55. Plaintiffs allege that Defendant Agent Doe, while acting under color of law as an agent or employee of the United States Border Protection, the United States Bureau of Customs and Border Protection, and/or the United States Customs and Immigration Enforcement Service, shot Decedent on June 7, 2010. In shooting Decedent, Defendant Agent Doe violated the prohibitions against the use of excessive force found in the Fourth and Fifth Amendments of the United States Constitution.

56. Plaintiffs allege that the aforesaid supervisory Defendants had a duty of care to train, supervise, and control Defendant Agent Doe in the performance of his law enforcement duties as an agent or employee of the United States Border Protection, the United States Bureau of Customs and Border Protection, and/or the United States Customs and Immigration Enforcement Service. Said Defendants breached their duty of care by intentionally establishing, promulgating, and enforcing policies, procedures, rules, and regulations regarding the use of deadly force which they knew, or should have known, were unconstitutional and discriminatory. In turn, those policies, procedures, rules, and regulations, directly and proximately resulted in Defendant Agent Doe being

armed with a firearm and authorizing him to use such firearm against Decedent in a discriminatory and unconstitutional manner on June 7, 2010.

57. As a direct and proximate result of the acts or omissions of such Defendants, Decedent was killed, giving rise to the injuries and damages for which Plaintiffs now complain. Plaintiffs allege that such acts and omissions by Defendant Agent Doe fall within the purview of 28 U.S.C. § 2671, et. seq.

**SEVENTH CLAIM FOR RELIEF:**

**VIOLATION OF FEDERAL TORT CLAIMS ACT BY THE UNITED STATES OF AMERICA AND OTHER DEFENDANTS ACTING IN THEIR OFFICIAL CAPACITIES BY THEIR INTENTIONAL FAILURE TO ADOPT POLICIES TO PROTECT DECEDENT'S CONSTITUTIONAL RIGHTS**

58. Plaintiffs repeat and incorporate above paragraphs 1 through 29, inclusive, as though fully set forth in this paragraph 58.

59. Plaintiffs allege that, at all times relevant hereto, the United States of America and Unknown Named Defendants, while acting in their respective official capacities, exercised supervision and control over Defendant Agent Doe. Such Defendants were acting under color of law as law enforcement officers and employees of the United States Government.

60. Plaintiffs allege that Defendant Agent Doe, while acting under color of law as an agent or employee of the United States Border Protection, the United States Bureau of Customs and Border Protection, and/or the United States Customs and Immigration Enforcement Service, shot Decedent on June 7, 2010. In shooting Decedent, Defendant Agent Doe violated the prohibitions against the use of excessive force found in the Fourth and Fifth Amendments of the United States Constitution.

61. Plaintiffs allege that the aforesaid supervisory Defendants had a duty of

care to train, supervise, and control Defendant Agent Doe in the performance of his law enforcement duties as an agent or employee of the United States Border Protection, the United States Bureau of Customs and Border Protection, and/or the United States Customs and Immigration Enforcement Service. Said Defendants breached their duty of care by intentionally failing to establish, promulgate, and enforce policies, procedures, rules, and regulations regarding the use of deadly force. In turn, the absence of such policies, procedures, rules, and regulations, directly and proximately resulted in Defendant Agent Doe being armed with a firearm and authorizing him to use such firearm against Decedent in a discriminatory and unconstitutional manner on June 7, 2010.

62. As a direct and proximate result of the acts or omissions of such Defendants, Decedent was killed, giving rise to the injuries and damages for which Plaintiffs now complain. Plaintiffs allege that such acts and omissions by Defendant Agent Doe fall within the purview of 28 U.S.C. § 2671, et. seq.

**EIGHTH CLAIM FOR RELIEF:**  
**ADOPTION OF POLICIES THAT VIOLATED DECEDENT'S FOURTH AND FIFTH AMENDMENT**  
**RIGHTS**

63. Plaintiffs repeat and incorporate above paragraphs 1 through 29, inclusive, as though fully set forth in this paragraph 63.

64. Plaintiffs allege that, at all times relevant hereto, the United States of America and Unknown Named Defendants, while acting in their respective official capacities, exercised supervision and control over Defendant Agent Doe. Such Defendants were acting under color of law as law enforcement officers and employees of the United States Government.

65. Plaintiffs allege that such supervisorial Defendants, acting in their respective individual capacities, were authorized final policy-makers. In such capacities, they adopted, acquiesced to, or ratified official customs, policies, procedures, and decisions, including training programs, which they knew, or should have known, were inadequate regarding the use of deadly force. The inadequacy of such official customs, policies, procedures, and decisions, including training programs, directly and proximately caused Defendant Agent Doe to use unreasonable, unconstitutional, and excessive force, i.e. deadly force, in effecting the arrest of Decedent. The use of such force deprived Decedent of his Fourth and Fifth Amendment rights to be free from unreasonable search and seizure. The inadequacy of such customs, policies, procedures, and decisions, including training programs, manifested a deliberate indifference to the protection of Decedent's constitutional rights and was the moving force, which resulted in the deprivation of Decedent's constitutional rights.

66. As a direct and proximate result of the acts or omissions of such Defendants, Decedent was killed, giving rise to the injuries and damages for which Plaintiffs now complain.

**NINTH CLAIM FOR RELIEF:**  
**FAILURE TO ADOPT POLICIES THAT RESULTED IN THE VIOLATION OF DECEDENT'S**  
**FOURTH AND FIFTH AMENDMENT RIGHTS**

67. Plaintiffs repeat and incorporate above paragraphs 1 through 29, inclusive, as though fully set forth in this paragraph 67.

68. Plaintiffs allege that, at all times relevant hereto, the United States of America and Unknown Named Defendants, while acting in their respective official



capacities, exercised supervision and control over Defendant Agent Doe. Such Defendants were acting under color of law as law enforcement officers and employees of the United States Government.

69. Plaintiffs allege that such supervisorial Defendants, acting in their respective individual capacities, were authorized final policy-makers who failed to adopt or ratify official customs, policies, procedures, and decisions, including training programs, regarding the use of reasonable force in effecting arrests. Such failure directly and proximately caused Defendant Agent Doe to use unreasonable, unconstitutional, and excessive force, i.e. deadly force, in effecting the arrest of Decedent. The use of such force deprived Decedent of his Fourth and Fifth Amendment rights to be free from unreasonable search and seizure. The failure to adopt such customs, policies, procedures, and decisions, including training programs, directly and proximately resulted in Decedent being shot by Defendant Agent Doe. The failure to adopt such customs, policies, procedures, and decisions, including training programs, manifested a deliberate indifference to the protection of Decedent's constitutional rights and was the moving force, which resulted in the deprivation of Decedent's constitutional rights.

70. As a direct and proximate result of the acts or omissions of such Defendants, Decedent was killed, giving rise to the injuries and damages for which Plaintiffs now complain.

**TENTH CLAIM FOR RELIEF:**  
**VIOLATION OF FOURTH AND FIFTH AMENDMENT RIGHTS BY**  
**UNNAMED AGENT DOE**

71. Plaintiffs repeat and incorporate above paragraphs 1 through 29,



inclusive, as though fully set forth in this paragraph 71.

72. Plaintiffs allege that Defendant Agent Doe shot Decedent on June 7, 2010, while acting individually under color of law as an employee of the United States Border Patrol, the United States Bureau of Customs and Border Protection, and/or the United States Immigration and Customs Enforcement Service while attempting to apprehend him in El Paso, Texas on suspicion of illegal entry into the United States.

73. Plaintiffs allege that in shooting Decedent, Defendant Agent Doe acted unreasonably by using excessive, deadly force against Decedent in violation of the Fourth and Fifth Amendments of the United States Constitution. At the time of the shooting, Decedent was unarmed and presented no physical threat to Defendant Agent Doe.

74. Plaintiffs allege that Defendant Agent Doe's shooting of Decedent evidences Defendant Agent Doe's callous disregard for, and deliberate indifference to, Decedent's constitutional rights.

75. As a direct and proximate result of the acts or omissions of Defendant Agent Doe, Decedent was killed, giving rise to the injuries and damages for which Plaintiffs now complain.

**ELEVENTH CLAIM FOR RELIEF:**  
**VIOLATION OF THE ALIEN TORT CLAIMS ACT BY ALL DEFENDANTS ACTING IN THEIR**  
**OFFICIAL CAPACITIES**

76. Plaintiffs repeat and incorporate above paragraphs 1 through 29, inclusive, as though fully set forth in this paragraph 76.

77. Plaintiffs allege that the acts and omissions of Defendants violate the Alien

Tort Claims Act, 28 U.S.C. § 1350 in that Plaintiff was shot in contravention of international treaties, conventions and the Laws of Nations, including but not limited to, the United Nations Charter; the Treaty of Amity, Commerce, and Navigation; the Treaty of Guadalupe Hidalgo of 1848; the Gadsden Treaty Relating to the Boundaries of 1853; the Inter-American Convention on the Rights and Duties of States; and the Inter-American Convention on the Status of Aliens; and those treaties relating to the friendship, peace, and respect for the Civil Rights of a State's citizens, and the boundaries and the sovereignty between the United States and Mexico.

78. Specifically, in shooting and killing Decedent while in Mexico, Defendant Agent Doe, acting within the course and scope of his employment as an agent and employee of Defendant the United States of America, violated the Treaty of Amity, Commerce, and Navigation of 1832, between the United States and Mexico, which provides that:

"There shall be a firm, inviolable and universal peace, and a true and sincere friendship between the United States of America and the United Mexican States in all the extent of their possessions and Territories and between their people and citizens respectively without distinction of persons or places."

79. In addition, in shooting and killing a Mexican citizen, while that citizen stood on Mexican soil, posing no threat of harm, Defendant Agent Doe, acting within the course and scope of his employment as an agent and employee of Defendant the United States of America, violated the treaties of Peace, Friendship, Limits and Settlement of 1848 (hereinafter "Guadalupe Hidalgo"), the Treaty of Suspension of Hostilities of 1848, and the Gadsden Treaty of 1853,

relating to the friendship, peace and respect for the Civil Rights of their citizens; the establishment of the present national boundaries; the cessation of hostilities; and the respect for sovereignty between the United States and Mexico.

80. In addition, in shooting and killing a Mexican citizen, while that citizen stood on Mexican soil, posing no threat of harm, Defendant Agent Doe, acting within the course and scope of his employment as an agent and employee of Defendant the United States of America, violated the Inter-American Convention of the Rights and Duties of States of 26 December 1933 (hereinafter "Inter-American Convention"). The Inter-American Convention, to which the United States and Mexico are parties, sets forth the principles governing Member States' respect for the rights of its citizens, the rights of independent States, and the respect and sovereignty of the signatory nations.

- (a) Article Two provides: "The federal state shall constitute a sole person in the eyes of international law."
- (b) Article Three provides: "The political existence of the state is independent of recognition by the other states. Even before recognition the state has the right to defend its integrity and independence . . . ."
- (c) Article Four provides: "States are juridically equal, enjoy the same rights, and have equal capacity in their exercise. The rights of each one do not depend upon the power which it possesses to assure its exercise, but upon the simple fact of its existence as a person under international law."

(d) Article Nine provides: "The jurisdiction of states within the limits of national territory applies to all the inhabitants . . . ."

(e) Article Eleven provides: "The territory of a state is inviolable and may not be the object of military occupation nor of other measures of force imposed by another state directly or indirectly or for any motive whatever even temporarily."

81. In addition, the United States and the State of Texas have an obligation to provide Decedent equal protection of the laws under the United States Constitution and conventions with Mexico. The United States has an independent obligation to treat aliens who come to seek redress in Texas courts as United States citizens are treated. The Convention of American Republics, signed on 20 February 1928, sets forth certain agreed principles between the United States and Mexico. Article Five of this Convention provides:

"States should extend to foreigners, domiciled or in transit through their territory, all individual guarantees extended to their own nationals, in the enjoyment of essential civil rights without detriments, as regard to foreigners, to legal provisions governing the scope of and usages for the exercise of said rights and guarantees."

Article Nine of the Convention on the Rights and Duties of States, executed on 26 December 1933, between the United States of America and other American republics, including Mexico, provides: "Nationals and foreigners are under the same protection of the law and the national authorities and the foreigners may not claim rights other or more extensive than those of the nationals."

WHEREFORE, Plaintiffs pray for judgment against all named and unnamed Defendants as follows:

- A. Damages as allowed on each Claim for Relief in an amount according to proof at the time of trial;
- B. All together with any interest, pre-and-post judgment, costs and disbursements; and
- C. Such other and further relief as this Court deems just and proper.

Respectfully submitted,

By: 

Robert C. Hilliard  
State Bar No. 09677700  
Federal ID No. 5912  
719 S. Shoreline Boulevard  
Suite 500  
Corpus Christi, Texas 78401  
Telephone: (361) 882-1612  
Facsimile: (361) 882-3015  
Email: [bobh@hmglawfirm.com](mailto:bobh@hmglawfirm.com)

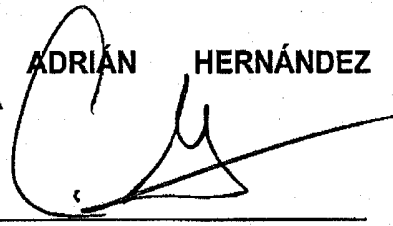
**OF COUNSEL**  
**HILLIARD MUNOZ GONZALES, LLP**

**ATTORNEY IN CHARGE FOR  
PLAINTIFFS, JESUS HERNÁNDEZ,  
INDIVIDUALLY AND AS THE  
SURVIVING FATHER OF SERGIO  
ADRIÁN HERNÁNDEZ GÜERECÁ,  
AND AS SUCCESSOR-IN-INTEREST  
TO THE ESTATE OF SERGIO ADRIAN  
HERNÁNDEZ GÜERECÁ; MARÍA  
GUADALUPE GÜERECÁ  
BENTACOUR INDIVIDUALLY AND AS  
THE SURVIVING MOTHER OF  
SERGIO ADRIÁN HERNÁNDEZ  
GÜERECÁ, AND AS SUCCESSOR-IN-  
INTEREST TO THE ESTATE OF**

**SERGIO  
GÜERECA**

**ADRIÁN**

**HERNÁNDEZ**

A handwritten signature in black ink, appearing to read 'Sergio Güereca', is written over a horizontal line. The signature is stylized with a large, looping 'S' and a trailing flourish.

Cristobal Galindo  
State Bar No. 24026128  
Federal ID No.24026128  
41515 Southwest Freeway  
Suite 602  
Houston, Texas 77027  
Phone: (713) 228-3030  
Facsimile: (713) 228-3003  
Email: [cmg@galindolaw.com](mailto:cmg@galindolaw.com)

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
EL PASO DIVISION

Jesus Hernández, individually and as  
the surviving father of Sergio Adrián  
Hernández Güereca, and as  
Successor-in-Interest to the Estate of  
Sergio Adrian Hernández Güereca;  
María Guadalupe Güereca Bentacour  
individually and as the surviving mother  
of Sergio Adrián Hernández Güereca,  
and as Successor-in-Interest to the  
Estate of Sergio Adrián Hernández  
Güereca,

*Plaintiffs,*

vs.

THE UNITED STATES OF AMERICA;  
Unknown Named Agent of the United  
States Border of America; United  
States Department of Homeland  
Security; United States Bureau of  
Customs and Border Protection; United  
States Border Patrol; United States  
Immigration and Customs Enforcement  
Agency; United States Department of  
Justice,

*Defendants.*

Civil Action No.

6:11-cv-00013

EXHIBIT A

**EXHIBIT A**



<b>CLAIM FOR DAMAGE, INJURY, OR DEATH</b>		<b>INSTRUCTIONS:</b> Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.		<b>FORM APPROVED</b> OMB NO. 1105-0008	
1. Submit To Appropriate Federal Agency: U.S. Department of Homeland Security Office of the General Counsel 245 Murray Lane Mailstop 0485 Washington, D.C. 20528-0485			2. Name, Address of claimant and claimant's personal representative, if any. (See instructions on reverse.) (Number, Street, City, State and Zip Code) Cristobal M. Galindo, Esq. Cristobal M. Galindo, P.C. 4151 Southwest Freeway, STE 602, Houston, TX 77027		
3. TYPE OF EMPLOYMENT <input type="checkbox"/> MILITARY <input checked="" type="checkbox"/> CIVILIAN	4. DATE OF BIRTH 9-29-1994	5. MARITAL STATUS Single	6. DATE AND DAY OF ACCIDENT Monday, June 7, 2010	7. TIME (A.M. OR P.M.) 6:30 P.M.	
8. Basis of Claim (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages if necessary.)  Sergio Adrian Hernandez Guereca, a minor, was shot across the border by a U.S. Border Patrol agent while he was in his home country, Mexico, and unarmed. Maria Guadalupe Guereca Betancour for loss of consortium, love and affection. Jesus Hernandez for loss of consortium, love and affection.					
<b>PROPERTY DAMAGE</b>					
9. NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, Street, City, State, and Zip Code). N/A					
BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF DAMAGE AND THE LOCATION WHERE PROPERTY MAY BE INSPECTED. (See instructions on reverse side.) N/A					
<b>PERSONAL INJURY/WRONGFUL DEATH</b>					
10. STATE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE NAME OF INJURED PERSON OR DECEDENT.  Deprivation of life as a result of unreasonable and excessive force. Loss of consortium damages.					
<b>WITNESSES</b>					
11. NAME		ADDRESS (Number, Street, City, State, and Zip Code)			
See video recordings in possession of border patrol and neighboring businesses.					
<b>AMOUNT OF CLAIM (in dollars)</b>					
12a. PROPERTY DAMAGE	12b. PERSONAL INJURY \$5million(consortium)	12c. WRONGFUL DEATH \$20,000,000.00	12d. TOTAL (Failure to specify may cause forfeiture of your rights.) \$25,000,000.00		
I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM					
13a. SIGNATURE OF CLAIMANT (See instructions on reverse side.)		13b. Phone number of person signing form 713-228-3030	14. DATE OF SIGNATURE June 23, 2010		
<b>CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM</b>  The claimant is liable to the United States Government for the civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages sustained by the Government. (See 31 U.S.C. 3729.)		<b>CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS</b>  Fine, Imprisonment, or both. (See 18 U.S.C. 287, 1001.)			

INSURANCE COVERAGE	
In order that subrogation claims may be adjudicated, it is essential that the claimant provide the following information regarding the insurance coverage of his vehicle or property.	
15. Do you carry accident insurance? <input type="checkbox"/> Yes If yes, give name and address of insurance company (Number, Street, City, State, and Zip Code) and policy number. <input type="checkbox"/> No	
16. Have you filed a claim on your insurance carrier in this instance, and if so, is it full coverage or deductible? <input type="checkbox"/> Yes <input type="checkbox"/> No	17. If deductible, state amount.
18. If a claim has been filed with your carrier, what action has your insurer taken or proposed to take with reference to your claim? (It is necessary that you ascertain these facts.)	
19. Do you carry public liability and property damage insurance? <input type="checkbox"/> Yes If yes, give name and address of insurance carrier (Number, Street, City, State, and Zip Code). <input type="checkbox"/> No	
<p style="text-align: center;"><b>INSTRUCTIONS</b></p> <p>Claims presented under the Federal Tort Claims Act should be submitted directly to the "appropriate Federal agency" whose employee(s) was involved in the incident. If the incident involves more than one claimant, each claimant should submit a separate claim form.</p> <p style="text-align: center;">Complete all items - insert the word NONE where applicable.</p> <div style="display: flex; justify-content: space-between;"> <div style="width: 48%;"> <p>A CLAIM SHALL BE DEEMED TO HAVE BEEN PRESENTED WHEN A FEDERAL AGENCY RECEIVES FROM A CLAIMANT, HIS DULY AUTHORIZED AGENT, OR LEGAL REPRESENTATIVE, AN EXECUTED STANDARD FORM 95 OR OTHER WRITTEN NOTIFICATION OF AN INCIDENT, ACCOMPANIED BY A CLAIM FOR MONEY</p> <p>Failure to completely execute this form or to supply the requested material within two years from the date the claim accrued may render your claim invalid. A claim is deemed presented when it is received by the appropriate agency, not when it is mailed.</p> <p>If instruction is needed in completing this form, the agency listed in item #1 on the reverse side may be contacted. Complete regulations pertaining to claims asserted under the Federal Tort Claims Act can be found in Title 28, Code of Federal Regulations, Part 14. Many agencies have published supplementing regulations. If more than one agency is involved, please state each agency.</p> <p>The claim may be filed by a duly authorized agent or other legal representative, provided evidence satisfactory to the Government is submitted with the claim establishing express authority to act for the claimant. A claim presented by an agent or legal representative must be presented in the name of the claimant. If the claim is signed by the agent or legal representative, it must show the title or legal capacity of the person signing and be accompanied by evidence of his/her authority to present a claim on behalf of the claimant as agent, executor, administrator, parent, guardian or other representative.</p> <p>If claimant intends to file for both personal injury and property damage, the amount for each must be shown in item #12 of this form.</p> </div> <div style="width: 48%;"> <p>DAMAGES IN A SUM CERTAIN FOR INJURY TO OR LOSS OF PROPERTY, PERSONAL INJURY, OR DEATH ALLEGED TO HAVE OCCURRED BY REASON OF THE INCIDENT. THE CLAIM MUST BE PRESENTED TO THE APPROPRIATE FEDERAL AGENCY WITHIN TWO YEARS AFTER THE CLAIM ACCRUES.</p> <p>The amount claimed should be substantiated by competent evidence as follows:</p> <p>(a) In support of the claim for personal injury or death, the claimant should submit a written report by the attending physician, showing the nature and extent of injury, the nature and extent of treatment, the degree of permanent disability, if any, the prognosis, and the period of hospitalization, or incapacitation, attaching itemized bills for medical, hospital, or burial expenses actually incurred.</p> <p>(b) In support of claims for damage to property, which has been or can be economically repaired, the claimant should submit at least two itemized signed statements or estimates by reliable, disinterested concerns, or, if payment has been made, the itemized signed receipts evidencing payment.</p> <p>(c) In support of claims for damage to property which is not economically repairable, or if the property is lost or destroyed, the claimant should submit statements as to the original cost of the property, the date of purchase, and the value of the property, both before and after the accident. Such statements should be by disinterested, competent persons, preferably reputable dealers or officials familiar with the type of property damaged, or by two or more competitive bidders, and should be certified as being just and correct.</p> <p>(d) Failure to specify a sum certain will render your claim invalid and may result in forfeiture of your rights.</p> </div> </div>	
<p style="text-align: center;"><b>PRIVACY ACT NOTICE</b></p> <p>This Notice is provided in accordance with the Privacy Act, 5 U.S.C. 552a(e)(3), and concerns the information requested in the letter to which this Notice is attached.</p> <p>A. <i>Authority:</i> The requested information is solicited pursuant to one or more of the following: 5 U.S.C. 301, 28 U.S.C. 501 et seq., 28 U.S.C. 2571 et seq., 28 C.F.R. Part 14.</p> <p>B. <i>Principal Purpose:</i> The information requested is to be used in evaluating claims.</p> <p>C. <i>Routine Use:</i> See the Notices of Systems of Records for the agency to whom you are submitting this form for this information.</p> <p>D. <i>Effect of Failure to Respond:</i> Disclosure is voluntary. However, failure to supply the requested information or to execute the form may render your claim "invalid".</p>	
<p style="text-align: center;"><b>PAPERWORK REDUCTION ACT NOTICE</b></p> <p>This notice is solely for the purpose of the Paperwork Reduction Act, 44 U.S.C. 3501. Public reporting burden for this collection of information is estimated to average 6 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Director, Torts Branch, Attention: Paperwork Reduction Staff, Civil Division, U.S. Department of Justice, Washington, D.C. 20530 or to the Office of Management and Budget. Do not mail completed form(s) to these addresses.</p>	

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
EL PASO DIVISION

Jesus Hernández, individually and as  
the surviving father of Sergio Adrián  
Hernández Güereca, and as  
Successor-in-Interest to the Estate of  
Sergio Adrian Hernández Güereca;  
María Guadalupe Güereca Bentacour  
individually and as the surviving mother  
of Sergio Adrián Hernández Güereca,  
and as Successor-in-Interest to the  
Estate of Sergio Adrián Hernández  
Güereca,

*Plaintiffs,*

vs.

THE UNITED STATES OF AMERICA;  
Unknown Named Agent of the United  
States of America; United States  
Department of Homeland Security;  
United States Bureau of Customs and  
Border Protection; United States  
Border Patrol; United States  
Immigration and Customs Enforcement  
Agency; United States Department of  
Justice,

*Defendants.*

Civil Action No.  
6:11-cv-00013

**EXHIBIT B**

**EXHIBIT B**

1300 Pennsylvania Avenue NW  
Washington, DC 20229



**U.S. Customs and  
Border Protection**

EP- 2010-00458/PPA  
November 30, 2010

***Via Certified U.S. Mail  
Return Receipt Requested***

Cristobal Galindo, Esq.  
C/o Cristobal Galindo, PC  
4151 Southwest Freeway  
Suite 602  
Houston, TX 77027

**Re: SF-95 Claim for Damage, Injury, or Death  
Sergio Adrian Hernandez Guereca (Decedent)**

Dear Mr. Galindo:

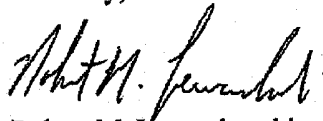
U.S. Customs and Border Protection ("CBP" or the "Agency") has received a Standard Form-95 CLAIM FOR DAMAGE, INJURY, OR DEATH ("SF-95") dated June 23, 2010, with attachments, identifying you as the attorney representing Sergio Adrian Hernandez Guereca (the "Decedent"), Maria Guadalupe Guereca Betancour and Jesus Hernandez, in which your clients claim damages in the total amount of \$25,000,000.00.

The Federal Tort Claims Act, 28 U.S.C. § 2671, *et seq.*, grants to the head of each Federal Government agency the authority to consider and settle administratively claims for personal injury and property damage caused by a negligent or wrongful act or omission of an employee of the Federal Government while acting within the scope of his employment. As the Agency authority, I have fully considered the facts and circumstances as presented in support of your claim.

On July 6, 2010 and August 12, 2010, the Agency formally requested information from the Claimants in accordance with, *inter alia*, 28 C.F.R. Part 14. Since you failed to provide any documentation substantiating your client's claims, such claims are hereby denied. Further, your client's claims are denied because any damage incurred is not attributable to a negligent or wrongful act or omission of a U.S. Customs and Border Protection, U.S. Border Patrol employee while the employee was acting within the scope of his or her employment.

Under governing regulations, we are required to advise you that if you are dissatisfied with this decision, you may file suit in an appropriate United States District Court not later than six (6) months after the date of this notification.

Sincerely,

A handwritten signature in dark ink, appearing to read "Robert M. Lewandowski". The signature is fluid and cursive, with the first name "Robert" and last name "Lewandowski" clearly distinguishable.

Robert M. Lewandowski  
Chief of Staff  
Office of U.S. Border Patrol



JS 44 (Rev. 12/07)

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

**I. (a) PLAINTIFFS** Jesús Hernández Giverca, Individually and as the surviving father of Sergio Adrian Hernández Giverca, and as successor in interest to the estate of Sergio Adrian Hernández Giverca, María Guadalupe Giverca, both individually and as the surviving mother of Sergio Adrian Hernández Giverca, and as a successor in interest to the estate of Sergio Adrian Hernández Giverca.  
**(b) County of Residence of First Listed Plaintiff** Adrian Hernández Giverca (EXCEPT IN U.S. PLAINTIFF CASES)  
**DEFENDANTS** UNITED STATES OF AMERICA, UNKNOWN Named Agents of United States Border Patrol, United States Department of Homeland Security, United States Bureau of Customs + Border Protection, United States Border Patrol, United States Immigration and Customs Enforcement Agency, The United States Department of Justice  
**County of Residence of First Listed Defendant** \_\_\_\_\_  
 (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

**(c) Attorney's (Firm Name, Address, and Telephone Number)**  
ROBERT C. HILLIARD, WILLIAM MONOZ GONZALES LLP  
719 SHORELINE BLVD. SUITE 300  
CORPUS CHRISTI, TX 78401 361.882.1612

**Attorneys (If Known)**  
UNKNOWN

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff  
☐ 2 U.S. Government Defendant  
☐ 3 Federal Question (U.S. Government Not a Party)  
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   |                                       |                            |   |                            |                            |
|---|---------------------------------------|----------------------------|---|----------------------------|----------------------------|
|   | PTF                                   | DEF                        |   | PTF                        | DEF                        |
| Citizen of This State                   | <input type="checkbox"/> 1            | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2            | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input checked="" type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

<b>CONTRACT</b>	<b>PERSONAL INJURY</b>	<b>PERSONAL INJURY</b>	<b>FORFEITURE/PENALTY</b>	<b>BANKRUPTCY</b>	<b>OTHER STATUTES</b>
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input checked="" type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes

**V. ORIGIN**

- (Place an "X" in One Box Only)  
☒ 1 Original Proceeding  
☐ 2 Removed from State Court  
☐ 3 Remanded from Appellate Court  
☐ 4 Reinstated or Reopened  
☐ 5 Transferred from another district (specify) \_\_\_\_\_  
☐ 6 Multidistrict Litigation  
☐ 7 Appeal to District Judge from Magistrate Judgment

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
28 USC 1346, 241-248; 28 USC 1350; Diversion Action; 44 USC 16101-16102  
 Brief description of cause:  
PTCA; Attack;

**VII. REQUESTED IN COMPLAINT:**

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$ \_\_\_\_\_

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE \_\_\_\_\_

DOCKET NUMBER \_\_\_\_\_

DATE  
01-17-11

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
EL PASO DIVISION

Jesus Hernández Güereca, individually  
and as the surviving father of Sergio  
Adrián Hernández Güereca, and as  
Successor-in-Interest to the Estate of  
Sergio Adrian Hernández Güereca;  
María Guadalupe Güereca Bentacour  
individually and as the surviving mother  
of Sergio Adrián Hernández Güereca,  
and as Successor-in-Interest to the  
Estate of Sergio Adrián Hernández  
Güereca,

*Plaintiffs,*

vs.

THE UNITED STATES OF AMERICA;  
Unknown Named Agents of the United  
States Border Patrol; United States  
Department of Homeland Security;  
United States Bureau of Customs and  
Border Protection; United States  
Border Patrol; United States  
Immigration and Customs Enforcement  
Agency; and United States Department  
of Justice,

*Defendants.*

Civil Action No.  
6:11-cv-00013

**SUMMONS**  
**IN A CIVIL ACTION**

TO: THE UNITED STATES OF AMERICA; UNKNOWN NAMED AGENTS OF  
THE UNITED STATES BORDER PATROL; UNITED STATES  
DEPARTMENT OF HOMELAND SECURITY; UNITED STATES  
BUREAU OF CUSTOMS AND BORDER PROTECTION; UNITED  
STATES BORDER PATROL; UNITED STATES IMMIGRATION AND  
CUSTOMS ENFORCEMENT AGENCY; AND UNITED STATES  
DEPARTMENT OF JUSTICE:



Vernell Everett  
Civil Process Clerk  
Office of the United States Attorney, Western District of Texas  
601 N.W. Loop 410  
Suite 600  
San Antonio, Texas 78216-5597

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it)—or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12(a)(2) or (3)—you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or the plaintiff's attorney, whose names and addresses are:

ROBERT C. HILLIARD, ESQUIRE  
FEDERAL I.D. No. 5912  
HILLIARD, MUÑOZ & GONZALES, L.L.P.  
719 SOUTH SHORELINE, SUITE 500  
CORPUS CHRISTI, TEXAS 78401  
PHONE: (361) 882-1612  
FACSIMILE: (361) 882-3015  
EMAIL: BOBH@HMGLAWFIRM.COM

CHRISTOBAL GALINDO, ESQUIRE  
CRISTOBAL GALINDO, PC  
4151 SOUTHWEST FREEWAY  
SUITE 602  
HOUSTON, TEXAS 77027  
PHONE: (713) 228-3030  
FACSIMILE: (713) 228-3003  
EMAIL: CMG@GALINDOLAW.COM

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You must file your answer or motion with the court.

CLERK OF COURT

DATE: \_\_\_\_\_

\_\_\_\_\_  
*Signature of Clerk or Deputy Clerk*

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
EL PASO DIVISION

Jesus Hernández Güereca, individually  
and as the surviving father of Sergio  
Adrián Hernández Güereca, and as  
Successor-in-Interest to the Estate of  
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María Guadalupe Güereca Bentacour  
individually and as the surviving mother  
of Sergio Adrián Hernández Güereca,  
and as Successor-in-Interest to the  
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Güereca,

*Plaintiffs,*

vs.

THE UNITED STATES OF AMERICA;  
Unknown Named Agents of the United  
States Border Patrol; United States  
Department of Homeland Security;  
United States Bureau of Customs and  
Border Protection; United States  
Border Patrol; United States  
Immigration and Customs Enforcement  
Agency; and United States Department  
of Justice,

*Defendants.*

Civil Action No.

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DEPARTMENT OF HOMELAND SECURITY; UNITED STATES  
BUREAU OF CUSTOMS AND BORDER PROTECTION; UNITED  
STATES BORDER PATROL; UNITED STATES IMMIGRATION AND  
CUSTOMS ENFORCEMENT AGENCY; AND UNITED STATES  
DEPARTMENT OF JUSTICE:

United States Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, N.W.  
Washington, D.C., 20530

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**ROBERT C. HILLIARD, ESQUIRE**  
**FEDERAL I.D. No. 5912**  
**HILLIARD, MUÑOZ & GONZALES, L.L.P.**  
**719 SOUTH SHORELINE, SUITE 500**  
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**EMAIL: BOBH@HMGLAWFIRM.COM**

**CHRISTOBAL GALINDO, ESQUIRE**  
**CRISTOBAL GALINDO, PC**  
**4151 SOUTHWEST FREEWAY**  
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**HOUSTON, TEXAS 77027**  
**PHONE: (713) 228-3030**  
**FACSIMILE: (713) 228-3003**  
**EMAIL: CMG@GALINDOLAW.COM**

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*CLERK OF COURT*

DATE: \_\_\_\_\_

\_\_\_\_\_  
*Signature of Clerk or Deputy Clerk*

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
EL PASO DIVISION

Jesus Hernández Güereca, individually  
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of Sergio Adrián Hernández Güereca,  
and as Successor-in-Interest to the  
Estate of Sergio Adrián Hernández  
Güereca,

*Plaintiffs,*

vs.

THE UNITED STATES OF AMERICA;  
Unknown Named Agents of the United  
States Border Patrol; United States  
Department of Homeland Security;  
United States Bureau of Customs and  
Border Protection; United States  
Border Patrol; United States  
Immigration and Customs Enforcement  
Agency; and United States Department  
of Justice,

*Defendants.*

Civil Action No.

**SUMMONS**  
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TO: THE UNITED STATES OF AMERICA; UNKNOWN NAMED AGENTS OF  
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DEPARTMENT OF HOMELAND SECURITY; UNITED STATES  
BUREAU OF CUSTOMS AND BORDER PROTECTION; UNITED  
STATES BORDER PATROL; UNITED STATES IMMIGRATION AND  
CUSTOMS ENFORCEMENT AGENCY; AND UNITED STATES  
DEPARTMENT OF JUSTICE:

Office of the General Counsel  
U.S. Department of Homeland Security  
Washington, D.C., 20528

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it)—or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12(a)(2) or (3)—you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or the plaintiff's attorney, whose names and addresses are:

**ROBERT C. HILLIARD, ESQUIRE**  
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CLERK OF COURT

DATE: \_\_\_\_\_

\_\_\_\_\_  
*Signature of Clerk or Deputy Clerk*

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
EL PASO DIVISION

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*Plaintiffs,*

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*Defendants.*

Civil Action No.  
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\_\_\_\_\_  
*Signature of Clerk or Deputy Clerk*

IN THE UNITED STATES DISTRICT COURT  
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of Justice,

*Defendants.*

Civil Action No.

**SUMMONS**  
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TO: THE UNITED STATES OF AMERICA; UNKNOWN NAMED AGENTS OF  
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BUREAU OF CUSTOMS AND BORDER PROTECTION; UNITED  
STATES BORDER PATROL; UNITED STATES IMMIGRATION AND  
CUSTOMS ENFORCEMENT AGENCY; AND UNITED STATES  
DEPARTMENT OF JUSTICE:



United States Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, N.W.  
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**ROBERT C. HILLIARD, ESQUIRE**  
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**HILLIARD, MUÑOZ & GONZALES, L.L.P.**  
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*CLERK OF COURT*

DATE: \_\_\_\_\_

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*Signature of Clerk or Deputy Clerk*

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
EL PASO DIVISION

Jesus Hernández Güereca, individually  
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individually and as the surviving mother  
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and as Successor-in-Interest to the  
Estate of Sergio Adrián Hernández  
Güereca,

*Plaintiffs,*

vs.

THE UNITED STATES OF AMERICA;  
Unknown Named Agents of the United  
States Border Patrol; United States  
Department of Homeland Security;  
United States Bureau of Customs and  
Border Protection; United States  
Border Patrol; United States  
Immigration and Customs Enforcement  
Agency; and United States Department  
of Justice,

*Defendants.*

Civil Action No.

**SUMMONS**  
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TO: THE UNITED STATES OF AMERICA; UNKNOWN NAMED AGENTS OF  
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BUREAU OF CUSTOMS AND BORDER PROTECTION; UNITED  
STATES BORDER PATROL; UNITED STATES IMMIGRATION AND  
CUSTOMS ENFORCEMENT AGENCY; AND UNITED STATES  
DEPARTMENT OF JUSTICE:

U.S. Customs and Border Protection  
Officer of the Chief Counsel  
1300 Pennsylvania Avenue, N.W.  
Washington, D.C., 20229

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it)—or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12(a)(2) or (3)—you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or the plaintiff's attorney, whose names and addresses are:

ROBERT C. HILLIARD, ESQUIRE  
FEDERAL I.D. No. 5912  
HILLIARD, MUÑOZ & GONZALES, L.L.P.  
719 SOUTH SHORELINE, SUITE 500  
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DATE: \_\_\_\_\_

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*Signature of Clerk or Deputy Clerk*

IN THE UNITED STATES DISTRICT COURT  
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Agency; and United States Department  
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*Defendants.*

Civil Action No.

**SUMMONS**  
**IN A CIVIL ACTION**

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BUREAU OF CUSTOMS AND BORDER PROTECTION; UNITED  
STATES BORDER PATROL; UNITED STATES IMMIGRATION AND  
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DEPARTMENT OF JUSTICE:

Office of the General Counsel  
U.S. Department of Homeland Security  
Washington, D.C., 20528

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ROBERT C. HILLIARD, ESQUIRE  
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DATE: \_\_\_\_\_

\_\_\_\_\_  
*Signature of Clerk or Deputy Clerk*

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
EL PASO DIVISION

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BUREAU OF CUSTOMS AND BORDER PROTECTION; UNITED  
STATES BORDER PATROL; UNITED STATES IMMIGRATION AND  
CUSTOMS ENFORCEMENT AGENCY; AND UNITED STATES  
DEPARTMENT OF JUSTICE:

Vernell Everett  
Civil Process Clerk  
Office of the United States Attorney, Western District of Texas  
601 N.W. Loop 410  
Suite 600  
San Antonio, Texas 78216-5597

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it)—or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12(a)(2) or (3)—you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or the plaintiff's attorney, whose names and addresses are:

ROBERT C. HILLIARD, ESQUIRE  
FEDERAL I.D. No. 5912  
HILLIARD, MUÑOZ & GONZALES, L.L.P.  
719 SOUTH SHORELINE, SUITE 500  
CORPUS CHRISTI, TEXAS 78401  
PHONE: (361) 882-1612  
FACSIMILE: (361) 882-3015  
EMAIL: BOBH@HMGSLAWFIRM.COM

CRISTOBAL GALINDO, ESQUIRE  
CRISTOBAL GALINDO, PC  
4151 SOUTHWEST FREEWAY  
SUITE 602  
HOUSTON, TEXAS 77027  
PHONE: (713) 228-3030  
FACSIMILE: (713) 228-3003  
EMAIL: CMG@GALINDOLAW.COM

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You must file your answer or motion with the court.

CLERK OF COURT

DATE: \_\_\_\_\_

\_\_\_\_\_  
*Signature of Clerk or Deputy Clerk*

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
EL PASO DIVISION

Jesus Hernández Güereca, individually  
and as the surviving father of Sergio  
Adrián Hernández Güereca, and as  
Successor-in-Interest to the Estate of  
Sergio Adrian Hernández Güereca;  
María Guadalupe Güereca Bentacour  
individually and as the surviving mother  
of Sergio Adrián Hernández Güereca,  
and as Successor-in-Interest to the  
Estate of Sergio Adrián Hernández  
Güereca,

*Plaintiffs,*

vs.

THE UNITED STATES OF AMERICA;  
Unknown Named Agents of the United  
States Border Patrol; United States  
Department of Homeland Security;  
United States Bureau of Customs and  
Border Protection; United States  
Border Patrol; United States  
Immigration and Customs Enforcement  
Agency; and United States Department  
of Justice,

*Defendants.*

Civil Action No.

**SUMMONS**  
**IN A CIVIL ACTION**

TO: THE UNITED STATES OF AMERICA; UNKNOWN NAMED AGENTS OF  
THE UNITED STATES BORDER PATROL; UNITED STATES  
DEPARTMENT OF HOMELAND SECURITY; UNITED STATES  
BUREAU OF CUSTOMS AND BORDER PROTECTION; UNITED  
STATES BORDER PATROL; UNITED STATES IMMIGRATION AND  
CUSTOMS ENFORCEMENT AGENCY; AND UNITED STATES  
DEPARTMENT OF JUSTICE:



United States Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, N.W.  
Washington, D.C., 20530

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ROBERT C. HILLIARD, ESQUIRE  
FEDERAL I.D. No. 5912  
HILLIARD, MUÑOZ & GONZALES, L.L.P.  
719 SOUTH SHORELINE, SUITE 500  
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DATE: \_\_\_\_\_

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IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
EL PASO DIVISION

Jesus Hernández Güereca, individually  
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Successor-in-Interest to the Estate of  
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and as Successor-in-Interest to the  
Estate of Sergio Adrián Hernández  
Güereca,

*Plaintiffs,*

vs.

THE UNITED STATES OF AMERICA;  
Unknown Named Agents of the United  
States Border Patrol; United States  
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United States Bureau of Customs and  
Border Protection; United States  
Border Patrol; United States  
Immigration and Customs Enforcement  
Agency; and United States Department  
of Justice,

*Defendants.*

Civil Action No.

**SUMMONS**  
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TO: THE UNITED STATES OF AMERICA; UNKNOWN NAMED AGENTS OF  
THE UNITED STATES BORDER PATROL; UNITED STATES  
DEPARTMENT OF HOMELAND SECURITY; UNITED STATES  
BUREAU OF CUSTOMS AND BORDER PROTECTION; UNITED  
STATES BORDER PATROL; UNITED STATES IMMIGRATION AND  
CUSTOMS ENFORCEMENT AGENCY; AND UNITED STATES  
DEPARTMENT OF JUSTICE:

U.S. Customs and Border Protection  
Officer of the Chief Counsel  
1300 Pennsylvania Avenue, N.W.  
Washington, D.C., 20229

A lawsuit has been filed against you.

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ROBERT C. HILLIARD, ESQUIRE  
FEDERAL I.D. No. 5912  
HILLIARD, MUÑOZ & GONZALES, L.L.P.  
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CLERK OF COURT

DATE: \_\_\_\_\_

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*Signature of Clerk or Deputy Clerk*

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
EL PASO DIVISION

Jesus Hernández Güereca, individually  
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Sergio Adrian Hernández Güereca;  
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Güereca,

*Plaintiffs,*

vs.

THE UNITED STATES OF AMERICA;  
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Department of Homeland Security;  
United States Bureau of Customs and  
Border Protection; United States  
Border Patrol; United States  
Immigration and Customs Enforcement  
Agency; and United States Department  
of Justice,

*Defendants.*

Civil Action No.

**SUMMONS**  
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TO: THE UNITED STATES OF AMERICA; UNKNOWN NAMED AGENTS OF  
THE UNITED STATES BORDER PATROL; UNITED STATES  
DEPARTMENT OF HOMELAND SECURITY; UNITED STATES  
BUREAU OF CUSTOMS AND BORDER PROTECTION; UNITED  
STATES BORDER PATROL; UNITED STATES IMMIGRATION AND  
CUSTOMS ENFORCEMENT AGENCY; AND UNITED STATES  
DEPARTMENT OF JUSTICE:

Office of the General Counsel  
U.S. Department of Homeland Security  
Washington, D.C., 20528

A lawsuit has been filed against you.

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**ROBERT C. HILLIARD, ESQUIRE**  
**FEDERAL I.D. No. 5912**  
**HILLIARD, MUÑOZ & GONZALES, L.L.P.**  
**719 SOUTH SHORELINE, SUITE 500**  
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**CHRISTOBAL GALINDO, ESQUIRE**  
**CRISTOBAL GALINDO, PC**  
**4151 SOUTHWEST FREEWAY**  
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CLERK OF COURT

DATE: \_\_\_\_\_

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*Signature of Clerk or Deputy Clerk*

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
EL PASO DIVISION

Jesus Hernández Güereca, individually  
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Adrián Hernández Güereca, and as  
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individually and as the surviving mother  
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and as Successor-in-Interest to the  
Estate of Sergio Adrián Hernández  
Güereca,

*Plaintiffs,*

vs.

THE UNITED STATES OF AMERICA;  
Unknown Named Agents of the United  
States Border Patrol; United States  
Department of Homeland Security;  
United States Bureau of Customs and  
Border Protection; United States  
Border Patrol; United States  
Immigration and Customs Enforcement  
Agency; and United States Department  
of Justice,

*Defendants.*

Civil Action No.  
6:11-cv-00013

**SUMMONS**  
**IN A CIVIL ACTION**

TO: THE UNITED STATES OF AMERICA; UNKNOWN NAMED AGENTS OF  
THE UNITED STATES BORDER PATROL; UNITED STATES  
DEPARTMENT OF HOMELAND SECURITY; UNITED STATES  
BUREAU OF CUSTOMS AND BORDER PROTECTION; UNITED  
STATES BORDER PATROL; UNITED STATES IMMIGRATION AND  
CUSTOMS ENFORCEMENT AGENCY; AND UNITED STATES  
DEPARTMENT OF JUSTICE:

Vernell Everett  
Civil Process Clerk  
Office of the United States Attorney, Western District of Texas  
601 N.W. Loop 410  
Suite 600  
San Antonio, Texas 78216-5597

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ROBERT C. HILLIARD, ESQUIRE  
FEDERAL I.D. No. 5912  
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DATE: \_\_\_\_\_

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*Signature of Clerk or Deputy Clerk*

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
EL PASO DIVISION

Jesus Hernández Güereca, individually  
and as the surviving father of Sergio  
Adrián Hernández Güereca, and as  
Successor-in-Interest to the Estate of  
Sergio Adrian Hernández Güereca;  
María Guadalupe Güereca Bentacour  
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of Sergio Adrián Hernández Güereca,  
and as Successor-in-Interest to the  
Estate of Sergio Adrián Hernández  
Güereca,

*Plaintiffs,*

vs.

THE UNITED STATES OF AMERICA;  
Unknown Named Agents of the United  
States Border Patrol; United States  
Department of Homeland Security;  
United States Bureau of Customs and  
Border Protection; United States  
Border Patrol; United States  
Immigration and Customs Enforcement  
Agency; and United States Department  
of Justice,

*Defendants.*

Civil Action No.

**SUMMONS**  
**IN A CIVIL ACTION**

TO: THE UNITED STATES OF AMERICA; UNKNOWN NAMED AGENTS OF  
THE UNITED STATES BORDER PATROL; UNITED STATES  
DEPARTMENT OF HOMELAND SECURITY; UNITED STATES  
BUREAU OF CUSTOMS AND BORDER PROTECTION; UNITED  
STATES BORDER PATROL; UNITED STATES IMMIGRATION AND  
CUSTOMS ENFORCEMENT AGENCY; AND UNITED STATES  
DEPARTMENT OF JUSTICE:



United States Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, N.W.  
Washington, D.C., 20530

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**ROBERT C. HILLIARD, ESQUIRE**  
**FEDERAL I.D. No. 5912**  
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DATE: \_\_\_\_\_

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*Signature of Clerk or Deputy Clerk*

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
EL PASO DIVISION

Jesus Hernández Güereca, individually  
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Adrián Hernández Güereca, and as  
Successor-in-Interest to the Estate of  
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María Guadalupe Güereca Bentacour  
individually and as the surviving mother  
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and as Successor-in-Interest to the  
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Güereca,

*Plaintiffs,*

vs.

THE UNITED STATES OF AMERICA;  
Unknown Named Agents of the United  
States Border Patrol; United States  
Department of Homeland Security;  
United States Bureau of Customs and  
Border Protection; United States  
Border Patrol; United States  
Immigration and Customs Enforcement  
Agency; and United States Department  
of Justice,

*Defendants.*

Civil Action No.  
6:11-cv-00013

**SUMMONS**  
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TO: THE UNITED STATES OF AMERICA; UNKNOWN NAMED AGENTS OF  
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DEPARTMENT OF HOMELAND SECURITY; UNITED STATES  
BUREAU OF CUSTOMS AND BORDER PROTECTION; UNITED  
STATES BORDER PATROL; UNITED STATES IMMIGRATION AND  
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DEPARTMENT OF JUSTICE:

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ROBERT C. HILLIARD, ESQUIRE  
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CLERK OF COURT

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Signature of Clerk or Deputy Clerk

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
EL PASO DIVISION

Jesus Hernández Güereca, individually  
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Adrián Hernández Güereca, and as  
Successor-in-Interest to the Estate of  
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Güereca,

*Plaintiffs,*

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States Border Patrol; United States  
Department of Homeland Security;  
United States Bureau of Customs and  
Border Protection; United States  
Border Patrol; United States  
Immigration and Customs Enforcement  
Agency; and United States Department  
of Justice,

*Defendants.*

Civil Action No.

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**IN A CIVIL ACTION**

TO: THE UNITED STATES OF AMERICA; UNKNOWN NAMED AGENTS OF  
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BUREAU OF CUSTOMS AND BORDER PROTECTION; UNITED  
STATES BORDER PATROL; UNITED STATES IMMIGRATION AND  
CUSTOMS ENFORCEMENT AGENCY; AND UNITED STATES  
DEPARTMENT OF JUSTICE:

United States Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, N.W.  
Washington, D.C., 20530

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DATE: \_\_\_\_\_

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IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
EL PASO DIVISION

Jesus Hernández Güereca, individually  
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*Plaintiffs,*

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States Border Patrol; United States  
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Border Protection; United States  
Border Patrol; United States  
Immigration and Customs Enforcement  
Agency; and United States Department  
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*Defendants.*

Civil Action No.

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DEPARTMENT OF JUSTICE:

Office of the General Counsel  
U.S. Department of Homeland Security  
Washington, D.C., 20528

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**HILLIARD, MUÑOZ & GONZALES, L.L.P.**  
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DATE: \_\_\_\_\_

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*Signature of Clerk or Deputy Clerk*

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
EL PASO DIVISION

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*Defendants.*

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STATES BORDER PATROL; UNITED STATES IMMIGRATION AND  
CUSTOMS ENFORCEMENT AGENCY; AND UNITED STATES  
DEPARTMENT OF JUSTICE:



Office of the Principal Legal Advisor  
Immigration and Customs Enforcement  
U.S. Department of Homeland Security  
500 12th Street S.W.  
Washington, D.C., 20024

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it)—or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12(a)(2) or (3)—you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or the plaintiff's attorney, whose names and addresses are:

ROBERT C. HILLIARD, ESQUIRE  
FEDERAL I.D. No. 5912  
HILLIARD, MUÑOZ & GONZALES, L.L.P.  
719 SOUTH SHORELINE, SUITE 500  
CORPUS CHRISTI, TEXAS 78401  
PHONE: (361) 882-1612  
FACSIMILE: (361) 882-3015  
EMAIL: BOBH@HMGSLAWFIRM.COM

CRISTOBAL GALINDO, ESQUIRE  
CRISTOBAL GALINDO, PC  
4151 SOUTHWEST FREEWAY  
SUITE 602  
HOUSTON, TEXAS 77027  
PHONE: (713) 228-3030  
FACSIMILE: (713) 228-3003  
EMAIL: CMG@GALINDOLAW.COM

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You must file your answer or motion with the court.

CLERK OF COURT

DATE: \_\_\_\_\_

\_\_\_\_\_  
*Signature of Clerk or Deputy Clerk*

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
EL PASO DIVISION

Jesus Hernández Güereca, individually  
and as the surviving father of Sergio  
Adrián Hernández Güereca, and as  
Successor-in-Interest to the Estate of  
Sergio Adrian Hernández Güereca;  
María Guadalupe Güereca Bentacour  
individually and as the surviving mother  
of Sergio Adrián Hernández Güereca,  
and as Successor-in-Interest to the  
Estate of Sergio Adrián Hernández  
Güereca,

*Plaintiffs,*

vs.

THE UNITED STATES OF AMERICA;  
Unknown Named Agents of the United  
States Border Patrol; United States  
Department of Homeland Security;  
United States Bureau of Customs and  
Border Protection; United States  
Border Patrol; United States  
Immigration and Customs Enforcement  
Agency; and United States Department  
of Justice,

*Defendants.*

Civil Action No.  
6:11-cv-00013

**SUMMONS**  
**IN A CIVIL ACTION**

TO: THE UNITED STATES OF AMERICA; UNKNOWN NAMED AGENTS OF  
THE UNITED STATES BORDER PATROL; UNITED STATES  
DEPARTMENT OF HOMELAND SECURITY; UNITED STATES  
BUREAU OF CUSTOMS AND BORDER PROTECTION; UNITED  
STATES BORDER PATROL; UNITED STATES IMMIGRATION AND  
CUSTOMS ENFORCEMENT AGENCY; AND UNITED STATES  
DEPARTMENT OF JUSTICE:

Vernell Everett  
Civil Process Clerk  
Office of the United States Attorney, Western District of Texas  
601 N.W. Loop 410  
Suite 600  
San Antonio, Texas 78216-5597

A lawsuit has been filed against you.

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ROBERT C. HILLIARD, ESQUIRE  
FEDERAL I.D. NO. 5912  
HILLIARD, MUÑOZ & GONZALES, L.L.P.  
719 SOUTH SHORELINE, SUITE 500  
CORPUS CHRISTI, TEXAS 78401  
PHONE: (361) 882-1612  
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EMAIL: BOBH@HMGSLAWFIRM.COM

CHRISTOBAL GALINDO, ESQUIRE  
CRISTOBAL GALINDO, PC  
4151 SOUTHWEST FREEWAY  
SUITE 602  
HOUSTON, TEXAS 77027  
PHONE: (713) 228-3030  
FACSIMILE: (713) 228-3003  
EMAIL: CMG@GALINDOLAW.COM

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CLERK OF COURT

DATE: \_\_\_\_\_

\_\_\_\_\_  
*Signature of Clerk or Deputy Clerk*

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
EL PASO DIVISION

Jesus Hernández Güereca, individually  
and as the surviving father of Sergio  
Adrián Hernández Güereca, and as  
Successor-in-Interest to the Estate of  
Sergio Adrian Hernández Güereca;  
María Guadalupe Güereca Bentacour  
individually and as the surviving mother  
of Sergio Adrián Hernández Güereca,  
and as Successor-in-Interest to the  
Estate of Sergio Adrián Hernández  
Güereca,

*Plaintiffs,*

vs.

THE UNITED STATES OF AMERICA;  
Unknown Named Agents of the United  
States Border Patrol; United States  
Department of Homeland Security;  
United States Bureau of Customs and  
Border Protection; United States  
Border Patrol; United States  
Immigration and Customs Enforcement  
Agency; and United States Department  
of Justice,

*Defendants.*

Civil Action No.

**SUMMONS**  
**IN A CIVIL ACTION**

TO: THE UNITED STATES OF AMERICA; UNKNOWN NAMED AGENTS OF  
THE UNITED STATES BORDER PATROL; UNITED STATES  
DEPARTMENT OF HOMELAND SECURITY; UNITED STATES  
BUREAU OF CUSTOMS AND BORDER PROTECTION; UNITED  
STATES BORDER PATROL; UNITED STATES IMMIGRATION AND  
CUSTOMS ENFORCEMENT AGENCY; AND UNITED STATES  
DEPARTMENT OF JUSTICE:

United States Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, N.W.  
Washington, D.C., 20530

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it)—or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12(a)(2) or (3)—you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or the plaintiff's attorney, whose names and addresses are:

**ROBERT C. HILLIARD, ESQUIRE**  
**FEDERAL I.D. No. 5912**  
**HILLIARD, MUÑOZ & GONZALES, L.L.P.**  
**719 SOUTH SHORELINE, SUITE 500**  
**CORPUS CHRISTI, TEXAS 78401**  
**PHONE: (361) 882-1612**  
**FACSIMILE: (361) 882-3015**  
**EMAIL: BOBH@HMGLAWFIRM.COM**

**CHRISTOBAL GALINDO, ESQUIRE**  
**CRISTOBAL GALINDO, PC**  
**4151 SOUTHWEST FREEWAY**  
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**HOUSTON, TEXAS 77027**  
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**EMAIL: CMG@GALINDOLAW.COM**

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You must file your answer or motion with the court.

CLERK OF COURT

DATE: \_\_\_\_\_

\_\_\_\_\_  
*Signature of Clerk or Deputy Clerk*

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
EL PASO DIVISION

Jesus Hernández Güereca, individually  
and as the surviving father of Sergio  
Adrián Hernández Güereca, and as  
Successor-in-Interest to the Estate of  
Sergio Adrian Hernández Güereca;  
María Guadalupe Güereca Bentacour  
individually and as the surviving mother  
of Sergio Adrián Hernández Güereca,  
and as Successor-in-Interest to the  
Estate of Sergio Adrián Hernández  
Güereca,

*Plaintiffs,*

vs.

THE UNITED STATES OF AMERICA;  
Unknown Named Agents of the United  
States Border Patrol; United States  
Department of Homeland Security;  
United States Bureau of Customs and  
Border Protection; United States  
Border Patrol; United States  
Immigration and Customs Enforcement  
Agency; and United States Department  
of Justice,

*Defendants.*

Civil Action No.

**SUMMONS**  
**IN A CIVIL ACTION**

TO: THE UNITED STATES OF AMERICA; UNKNOWN NAMED AGENTS OF  
THE UNITED STATES BORDER PATROL; UNITED STATES  
DEPARTMENT OF HOMELAND SECURITY; UNITED STATES  
BUREAU OF CUSTOMS AND BORDER PROTECTION; UNITED  
STATES BORDER PATROL; UNITED STATES IMMIGRATION AND  
CUSTOMS ENFORCEMENT AGENCY; AND UNITED STATES  
DEPARTMENT OF JUSTICE:

U.S. Customs and Border Protection  
Officer of the Chief Counsel  
1300 Pennsylvania Avenue, N.W.  
Washington, D.C., 20229

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it)—or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12(a)(2) or (3)—you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or the plaintiff's attorney, whose names and addresses are:

**ROBERT C. HILLIARD, ESQUIRE**  
**FEDERAL I.D. No. 5912**  
**HILLIARD, MUÑOZ & GONZALES, L.L.P.**  
**719 SOUTH SHORELINE, SUITE 500**  
**CORPUS CHRISTI, TEXAS 78401**  
**PHONE: (361) 882-1612**  
**FACSIMILE: (361) 882-3015**  
**EMAIL: BOBH@HMGLAWFIRM.COM**

**CHRISTOBAL GALINDO, ESQUIRE**  
**CRISTOBAL GALINDO, PC**  
**4151 SOUTHWEST FREEWAY**  
**SUITE 602**  
**HOUSTON, TEXAS 77027**  
**PHONE: (713) 228-3030**  
**FACSIMILE: (713) 228-3003**  
**EMAIL: CMG@GALINDOLAW.COM**

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CLERK OF COURT

DATE: \_\_\_\_\_

\_\_\_\_\_  
*Signature of Clerk or Deputy Clerk*

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
EL PASO DIVISION**

Jesus Hernández Güereca, individually  
and as the surviving father of Sergio  
Adrián Hernández Güereca, and as  
Successor-in-Interest to the Estate of  
Sergio Adrian Hernández Güereca;  
María Guadalupe Güereca Bentacour  
individually and as the surviving mother  
of Sergio Adrián Hernández Güereca,  
and as Successor-in-Interest to the  
Estate of Sergio Adrián Hernández  
Güereca,

*Plaintiffs,*

vs.

THE UNITED STATES OF AMERICA;  
Unknown Named Agents of the United  
States Border Patrol; United States  
Department of Homeland Security;  
United States Bureau of Customs and  
Border Protection; United States  
Border Patrol; United States  
Immigration and Customs Enforcement  
Agency; and United States Department  
of Justice,

*Defendants.*

Civil Action No.

**SUMMONS  
IN A CIVIL ACTION**

**TO: THE UNITED STATES OF AMERICA; UNKNOWN NAMED AGENTS OF  
THE UNITED STATES BORDER PATROL; UNITED STATES  
DEPARTMENT OF HOMELAND SECURITY; UNITED STATES  
BUREAU OF CUSTOMS AND BORDER PROTECTION; UNITED  
STATES BORDER PATROL; UNITED STATES IMMIGRATION AND  
CUSTOMS ENFORCEMENT AGENCY; AND UNITED STATES  
DEPARTMENT OF JUSTICE:**



Office of the General Counsel  
U.S. Department of Homeland Security  
Washington, D.C., 20528

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it)—or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12(a)(2) or (3)—you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or the plaintiff's attorney, whose names and addresses are:

ROBERT C. HILLIARD, ESQUIRE  
FEDERAL I.D. No. 5912  
HILLIARD, MUÑOZ & GONZALES, L.L.P.  
719 SOUTH SHORELINE, SUITE 500  
CORPUS CHRISTI, TEXAS 78401  
PHONE: (361) 882-1612  
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FACSIMILE: (713) 228-3003  
EMAIL: CMG@GALINDOLAW.COM

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CLERK OF COURT

DATE: \_\_\_\_\_

\_\_\_\_\_  
*Signature of Clerk or Deputy Clerk*

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
EL PASO DIVISION

Jesus Hernández Güereca, individually  
and as the surviving father of Sergio  
Adrián Hernández Güereca, and as  
Successor-in-Interest to the Estate of  
Sergio Adrian Hernández Güereca;  
María Guadalupe Güereca Bentacour  
individually and as the surviving mother  
of Sergio Adrián Hernández Güereca,  
and as Successor-in-Interest to the  
Estate of Adrián Hernández Güereca,

*Plaintiffs,*

vs.

THE UNITED STATES OF AMERICA;  
Unknown Named Agents of the United  
States Border Patrol; United States  
Department of Homeland Security;  
United States Bureau of Customs and  
Border Protection; United States  
Border Patrol; United States  
Immigration and Customs Enforcement  
Agency; and United States Department  
of Justice,

*Defendants.*

Civil Action No.

**SUMMONS**  
**IN A CIVIL ACTION**

TO: THE UNITED STATES OF AMERICA; UNKNOWN NAMED AGENTS OF  
THE UNITED STATES BORDER PATROL; UNITED STATES  
DEPARTMENT OF HOMELAND SECURITY; UNITED STATES  
BUREAU OF CUSTOMS AND BORDER PROTECTION; UNITED  
STATES BORDER PATROL; UNITED STATES IMMIGRATION AND  
CUSTOMS ENFORCEMENT AGENCY; AND UNITED STATES  
DEPARTMENT OF JUSTICE:

Office of the Principal Legal Advisor  
Immigration and Customs Enforcement  
U.S. Department of Homeland Security  
500 12th Street S.W.  
Washington, D.C., 20024

A lawsuit has been filed against you.

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ROBERT C. HILLIARD, ESQUIRE  
FEDERAL I.D. No. 5912  
HILLIARD, MUÑOZ & GONZALES, L.L.P.  
719 SOUTH SHORELINE, SUITE 500  
CORPUS CHRISTI, TEXAS 78401  
PHONE: (361) 882-1612  
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CLERK OF COURT

DATE: \_\_\_\_\_

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*Signature of Clerk or Deputy Clerk*

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
EL PASO DIVISION

Jesus Hernández Güereca, individually  
and as the surviving father of Sergio  
Adrián Hernández Güereca, and as  
Successor-in-Interest to the Estate of  
Sergio Adrian Hernández Güereca;  
María Guadalupe Güereca Bentacour  
individually and as the surviving mother  
of Sergio Adrián Hernández Güereca,  
and as Successor-in-Interest to the  
Estate of Sergio Adrián Hernández  
Güereca,

*Plaintiffs,*

vs.

THE UNITED STATES OF AMERICA;  
Unknown Named Agents of the United  
States Border Patrol; United States  
Department of Homeland Security;  
United States Bureau of Customs and  
Border Protection; United States  
Border Patrol; United States  
Immigration and Customs Enforcement  
Agency; and United States Department  
of Justice,

*Defendants.*

Civil Action No.

6:11-cv-00013

**SUMMONS**  
**IN A CIVIL ACTION**

TO: THE UNITED STATES OF AMERICA; UNKNOWN NAMED AGENTS OF  
THE UNITED STATES BORDER PATROL; UNITED STATES  
DEPARTMENT OF HOMELAND SECURITY; UNITED STATES  
BUREAU OF CUSTOMS AND BORDER PROTECTION; UNITED  
STATES BORDER PATROL; UNITED STATES IMMIGRATION AND  
CUSTOMS ENFORCEMENT AGENCY; AND UNITED STATES  
DEPARTMENT OF JUSTICE:

United States Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, N.W.  
Washington, D.C., 20530

A lawsuit has been filed against you.

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ROBERT C. HILLIARD, ESQUIRE  
FEDERAL I.D. No. 5912  
HILLIARD, MUÑOZ & GONZALES, L.L.P.  
719 SOUTH SHORELINE, SUITE 500  
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CLERK OF COURT

DATE: \_\_\_\_\_

\_\_\_\_\_  
*Signature of Clerk or Deputy Clerk*

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
EL PASO DIVISION

Jesus Hernández Güereca, individually  
and as the surviving father of Sergio  
Adrián Hernández Güereca, and as  
Successor-in-Interest to the Estate of  
Sergio Adrian Hernández Güereca;  
María Guadalupe Güereca Bentacour  
individually and as the surviving mother  
of Sergio Adrián Hernández Güereca,  
and as Successor-in-Interest to the  
Estate of Sergio Adrián Hernández  
Güereca,

*Plaintiffs,*

vs.

THE UNITED STATES OF AMERICA;  
Unknown Named Agents of the United  
States Border Patrol; United States  
Department of Homeland Security;  
United States Bureau of Customs and  
Border Protection; United States  
Border Patrol; United States  
Immigration and Customs Enforcement  
Agency; and United States Department  
of Justice,

*Defendants.*

Civil Action No.

**SUMMONS**  
**IN A CIVIL ACTION**

TO: THE UNITED STATES OF AMERICA; UNKNOWN NAMED AGENTS OF  
THE UNITED STATES BORDER PATROL; UNITED STATES  
DEPARTMENT OF HOMELAND SECURITY; UNITED STATES  
BUREAU OF CUSTOMS AND BORDER PROTECTION; UNITED  
STATES BORDER PATROL; UNITED STATES IMMIGRATION AND  
CUSTOMS ENFORCEMENT AGENCY; AND UNITED STATES  
DEPARTMENT OF JUSTICE:

Vernell Everett  
Civil Process Clerk  
Office of the United States Attorney, Western District of Texas  
601 N.W. Loop 410  
Suite 600  
San Antonio, Texas 78216-5597

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ROBERT C. HILLIARD, ESQUIRE  
FEDERAL I.D. No. 5912  
HILLIARD, MUÑOZ & GONZALES, L.L.P.  
719 SOUTH SHORELINE, SUITE 500  
CORPUS CHRISTI, TEXAS 78401  
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HOUSTON, TEXAS 77027  
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FACSIMILE: (713) 228-3003  
EMAIL: CMG@GALINDOLAW.COM

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CLERK OF COURT

DATE: \_\_\_\_\_

\_\_\_\_\_  
*Signature of Clerk or Deputy Clerk*